

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1881-MLM-E TCEQ ID: RN101531887 CASE NO.: 34980
RESPONDENT NAME: DOWD & SONS AUTOMOBILE SALVAGE COMPANY, INC.
AKA DOWD & SONS, INC.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATIONS OCCURRED: 419 7th Street, Corsicana, Navarro County

TYPE OF OPERATION: Automobile salvage and wrecking yard

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired October 12, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Judy Kluge, Waste Enforcement Section, MC R-4, (817) 588- 5825

TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588- 5903

Respondent: Mr. Mike Dowd, President, Dowd & Sons Automobile Salvage Company, Inc., P.O. Box 508, Corsicana, Texas 75151

Respondent's Attorney: Not represented by counsel on this enforcement matter.

AKA DOWD & SONS, INC.

DOCKET NO.: 2007-1881-MLM-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint</p> <p><input checked="" type="checkbox"/> Routine</p> <p><input checked="" type="checkbox"/> Enforcement Follow-up</p> <p><input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: September 26, 2007 (initial investigation); May 28, 2008 (follow-up investigation)</p> <p>Dates of NOEs Relating to this Case: October 29, 2007; June 13, 2008</p> <p>Background Facts: The EDPRP relating to the September 26, 2007, investigation was filed April 22, 2008. On May 28, 2008, additional violations were discovered, and an EDFARP was filed October 9, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and a signed Agreed Order was received on July 15, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to hold an on-site supervisor license and contractor registration prior to removal of a UST from the ground [30 TEX. ADMIN. CODE §§ 30.5(a), 30.301(b), 334.55(a)(3) and 334.401(a) and TEX. WATER CODE § 37.003]. Failed to provide a written notification to the TCEQ at least 30 days prior to performing a major construction activity, namely removing a UST [30 TEX. ADMIN. CODE §§ 334.6(b)(2) and 334.55(a)(1)]. Failed to determine whether or not a release has occurred by performing a site assessment [30 TEX. ADMIN. CODE §§ 334.55(a)(6) and 334.55(e)(1)]. 	<p>Total Assessed: \$4,673</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$394/\$4,279</p> <p>The Respondent paid \$394 of the administrative penalty. The remaining amount of \$4,279 shall be payable in 11 monthly payments of \$389 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, obtain qualified, licensed personnel to conduct a site assessment and submit a copy of the site assessment report. If corrective action is necessary, comply with 30 TEX. ADMIN. CODE § 334.79 "Removal of Non-Aqueous Phase Liquids" and 30 TEX. ADMIN. CODE § 334.80 "Investigation for Soil and Groundwater Cleanup". Within 45 days, submit written certification demonstrating compliance with the above Ordering Provision.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	17-Jun-2008	Screening	23-Jun-2008	EPA Due	
	PCW	1-Jul-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	DOWD & SONS AUTOMOBILE SALVAGE COMPANY, INC.		
Reg. Ent. Ref. No.	RN101531887		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34980	No. of Violations	1
Docket No.	2007-1881-MLM-E	Order Type	1660
Media Program(s)	All Occupational Licenses	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$625**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 2.0% Enhancement Subtotals 2, 3, & 7 **\$12**

Notes Enhancement for one prior NOV with dissimilar violations.

Culpability No 0.0% Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 **\$0**

Economic Benefit 0.0% Enhancement* Subtotal 6 **\$0**

Total EB Amounts \$361
Approx. Cost of Compliance \$343
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$637**

OTHER FACTORS AS JUSTICE MAY REQUIRE 56.7% Adjustment **\$361**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 1.

Final Penalty Amount **\$998**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$998**

DEFERRAL 0.0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$998**

EXHIBIT

tabbles

PCW-1

Screening Date 23-Jun-2008

Docket No. 2007-1881-MLM-E

PCW

Respondent DOWD & SONS AUTOMOBILE SALVAGE COMPANY, I

Policy Revision 2 (September 2002)

Case ID No. 34980

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101531887

Media [Statute] All Occupational Licenses

Enf. Coordinator Judy Kluge

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one prior NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 2%

Screening Date 23-Jun-2008		Docket No. 2007-1881-MLM-E		PCW
Respondent DOWD & SONS AUTOMOBILE SALVAGE COMPANY, INC.		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 34980		<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN101531887				
Media [Statute] All Occupational Licenses				
Enf. Coordinator Judy Kluge				
Violation Number	<input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code §§ 30.5(a), 30.301(b), 334.55(a)(3), 334.401(a) and Tex. Water Code § 37.003			
Violation Description	Failed to hold an on-site supervisor license and contractor registration prior to removal of an UST from the ground. Specifically, the Respondent removed one UST at the Facility without holding a license or registration.			
Base Penalty				<input type="text" value="\$2,500"/>
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text" value="25%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<input type="text" value="0%"/>
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment				<input type="text" value="\$1,875"/>
				<input type="text" value="\$625"/>
Violation Events				
Number of Violation Events		<input type="text" value="1"/>	Number of violation days	
		<input type="text" value="1"/>		
mark only one with an x	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text" value="x"/>		
Violation Base Penalty		<input type="text" value="\$625"/>		
One single event is recommended based on documentation of the violation from the May 28, 2008 investigation.				
Good Faith Efforts to Comply				
		0.0% Reduction		<input type="text" value="\$0"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal				<input type="text" value="\$625"/>
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount		<input type="text" value="\$361"/>	Violation Final Penalty Total	
			<input type="text" value="\$999"/>	
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$999"/>

Economic Benefit Worksheet**Respondent** DOWD & SONS AUTOMOBILE SALVAGE COMPANY, INC.**Case ID No.** 34980**Reg. Ent. Reference No.** RN101531887**Media** All Occupational Licenses**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$343	1-Apr-2008	28-May-2008	1.07	\$18	\$343	\$361
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost to obtain an on-site supervisor license and contractor registration. The date required is the date of the removal of the UST system and the final date is the date of the compliance.

Approx. Cost of Compliance

\$343

TOTAL

\$361



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

TCEQ

Assigned	17-Jun-2008
PCW	24-Jun-2009
Screening	23-Jun-2008
EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	DOWD & SONS AUTOMOBILE SALVAGE COMPANY, INC.		
Reg. Ent. Ref. No.	RN101531887		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34980	No. of Violations	2
Docket No.	2007-1881-MLM-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$3,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 2.0% Enhancement Subtotals 2, 3, & 7 \$70

Notes Enhancement for one NOV with dissimilar violations.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$278
Approx. Cost of Compliance	\$3,100

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$3,570

OTHER FACTORS AS JUSTICE MAY REQUIRE 2.9% Adjustment \$105

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided costs of compliance associated with Violation No. 1.

Final Penalty Amount \$3,675

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$3,675

DEFERRAL 0.0% Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY \$3,675

EXHIBIT

tabbles

PCW-2

Screening Date 23-Jun-2008

Docket No. 2007-1881-MLM-E

PCW

Respondent DOWD & SONS AUTOMOBILE SALVAGE COMPANY, I

Policy Revision 2 (September 2002)

Case ID No. 34980

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101531887

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 2%

Screening Date 23-Jun-2008		Docket No. 2007-1881-MLM-E		PCW																	
Respondent DOWD & SONS AUTOMOBILE SALVAGE COMPANY, INC.				<small>Policy Revision 2 (September 2002)</small>																	
Case ID No. 34980				<small>PCW Revision June 12, 2008</small>																	
Reg. Ent. Reference No. RN101531887																					
Media [Statute] Petroleum Storage Tank																					
Enf. Coordinator Judy Kluge																					
Violation Number		<div style="border: 1px solid black; padding: 2px;">1</div>																			
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code §§ 334.6(b)(2) and 334.55(a)(1)</div>																			
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to provide a written notification to the TCEQ at least 30 days prior to performing a major construction activity. Specifically, the Respondent removed the UST without a construction notification.</div>																			
Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>																	
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px;">0%</div>
		Harm																			
	Release	Major	Moderate	Minor																	
Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
>> Programmatic Matrix																					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Falsification</td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>					Falsification				Major	Moderate	Minor		<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px;">10%</div>
	Falsification																				
	Major	Moderate	Minor																		
	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																		
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">100% of the rule requirement was not met.</div>																				
Adjustment				<div style="border: 1px solid black; padding: 2px;">\$9,000</div>																	
				<div style="border: 1px solid black; padding: 2px;">\$1,000</div>																	
Violation Events																					
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">1</div>	<div style="border: 1px solid black; padding: 2px;">26</div>	Number of violation days																	
mark only one with an x	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	x																		
<div style="border: 1px solid black; padding: 5px;">One single event is recommended based on documentation of the violation during the May 28, 2008 investigation.</div>																					
Good Faith Efforts to Comply		0.0% Reduction		<div style="border: 1px solid black; padding: 2px;">\$0</div>																	
		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>		Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Ordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	N/A	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>										
Before NOV	NOV to EDPRP/Settlement Offer																				
Extraordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																				
Ordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																				
N/A	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																				
Notes		<div style="border: 1px solid black; padding: 5px;">The Respondent does not meet the good faith criteria for this violation.</div>																			
Violation Subtotal				<div style="border: 1px solid black; padding: 2px;">\$1,000</div>																	
Economic Benefit (EB) for this violation		Statutory Limit Test																			
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$105</div>	Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px;">\$1,050</div>																		
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px;">\$1,050</div>																	

Economic Benefit Worksheet**Respondent:** DOWD & SONS AUTOMOBILE SALVAGE COMPANY, INC.**Case ID No.** 34980**Reg. Ent. Reference No.** RN101531887**Media** Petroleum Storage Tank**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	2-Mar-2008	1-Apr-2008	1.00	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to submit a construction notification form to the agency. The date required is 30 days prior to the estimated date of removal of the UST system and the final date is the date the UST was removed from the ground.

Approx. Cost of Compliance

\$100

TOTAL

\$105

Screening Date 23-Jun-2008		Docket No. 2007-1881-MLM-E		PCW																			
Respondent DOWD & SONS AUTOMOBILE SALVAGE COMPANY, INC.		<i>Policy Revision 2 (September 2002)</i>																					
Case ID No. 34980		<i>PCW Revision June 12, 2008</i>																					
Reg. Ent. Reference No. RN101531887																							
Media [Statute] Petroleum Storage Tank																							
Enf. Coordinator Judy Kluge																							
Violation Number		<div style="border: 1px solid black; padding: 2px;">2</div>																					
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code §§ 334.55(a)(6) and 334.55(e)(1)</div>																					
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to determine whether or not a release has occurred by performing a site assessment. Specifically, the owner/operator did not conduct a site assessment by a qualified personnel after the removal of the UST system.</div>																					
Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>																			
>> Environmental, Property and Human Health Matrix																							
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td>Release</td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> <td rowspan="2" style="vertical-align: middle;">Percent <div style="border: 1px solid black; padding: 2px;">25%</div></td> </tr> <tr> <td>Potential</td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </table>					Harm				Release	Major	Moderate	Minor		Actual				Percent <div style="border: 1px solid black; padding: 2px;">25%</div>	Potential	x		
		Harm																					
	Release	Major	Moderate	Minor																			
Actual				Percent <div style="border: 1px solid black; padding: 2px;">25%</div>																			
Potential	x																						
>> Programmatic Matrix																							
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <th>Falsification</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td rowspan="2" style="vertical-align: middle;">Percent <div style="border: 1px solid black; padding: 2px;">0%</div></td> </tr> </table>					Falsification	Major	Moderate	Minor							Percent <div style="border: 1px solid black; padding: 2px;">0%</div>							
	Falsification	Major	Moderate	Minor																			
					Percent <div style="border: 1px solid black; padding: 2px;">0%</div>																		
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.																						
Adjustment				<div style="border: 1px solid black; padding: 2px;">\$7,500</div>																			
				<div style="border: 1px solid black; padding: 2px;">\$2,500</div>																			
Violation Events																							
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">1</div>	<div style="border: 1px solid black; padding: 2px;">26</div>	Number of violation days																			
mark only one with an x	daily	<div style="border: 1px solid black; padding: 2px;">x</div>			Violation Base Penalty <div style="border: 1px solid black; padding: 2px;">\$2,500</div>																		
	monthly																						
	quarterly																						
	semiannual																						
	annual																						
	single event																						
One monthly event is recommended based on documentation of the violation from the May 28, 2008 investigation to the June 23, 2008 screening date.																							
Good Faith Efforts to Comply		0.0% Reduction		<div style="border: 1px solid black; padding: 2px;">\$0</div>																			
		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <th>Before NOV</th> <th>NOV to EDPRP/Settlement Offer</th> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>			Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary			Ordinary			N/A	x	(mark with x)	Violation Subtotal <div style="border: 1px solid black; padding: 2px;">\$2,500</div>							
	Before NOV	NOV to EDPRP/Settlement Offer																					
Extraordinary																							
Ordinary																							
N/A	x	(mark with x)																					
Notes		The Respondent does not meet the good faith criteria for this violation.																					
Economic Benefit (EB) for this violation		Statutory Limit Test																					
Estimated EB Amount <div style="border: 1px solid black; padding: 2px;">\$173</div>		Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px;">\$2,625</div>																					
		This violation Final Assessed Penalty (adjusted for limits) <div style="border: 1px solid black; padding: 2px;">\$2,625</div>																					

Economic Benefit Worksheet

Respondent DOWD & SONS AUTOMOBILE SALVAGE COMPANY, INC.

Case ID No. 34980

Reg. Ent. Reference No. RN101531887

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	1-Apr-2008	28-May-2009	1.16	\$173	n/a	\$173

Notes for DELAYED costs

Estimated cost to ensure a qualified contractor conducts a site assessment and submits a release determination report. The date required is the date of the removal of the UST system and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$173

Compliance History

Customer/Respondent/Owner-Operator:	CN600803597	Dowd & Sons Automobile Salvage Company, Inc.	Classification: AVERAGE	Rating: 2.25
Regulated Entity:	RN101531887	DOWD & SONS AUTOMOBILE SALVAGE COMPANY INC	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	28032	
Location:	419 S 7TH ST, CORSICANA, TX, 75110		Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	June 18, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 18, 2003 to June 18, 2008			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Judy Kluge Phone: 817-588-5825

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 06/16/2006 (482816)
- 2 10/29/2007 (596082)
- 3 06/13/2008 (681787)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/16/2006 (482816)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DOWD & SONS AUTOMOBILE
SALVAGE COMPANY, INC. AKA
DOWD & SONS, INC.
RN101531887

§
§
§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1881-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Dowd & Sons Automobile Salvage Company, Inc. aka Dowd & Sons, Inc. ("Dowd & Sons") under the authority of TEX. WATER CODE chs. 7, 26 and 37. The Executive Director of the TCEQ, represented by the Litigation Division, and Dowd & Sons appear before the Commission and together stipulate that:

1. Dowd & Sons owns and operates an automobile salvage and wrecking yard located at 419 7th Street, Corsicana, Navarro County, Texas (the "Facility"). There used to be located at the Facility an out-of-service 1,000 gallon steel underground storage tank ("UST") which is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 26 and 37 and TCEQ rules.
3. The Commission and Dowd & Sons agree that the Commission has jurisdiction to enter this Agreed Order, and that Dowd & Sons is subject to the Commission's jurisdiction.
4. Dowd & Sons received notice of the violations alleged in Section II ("Allegations") on or about June 18, 2008.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Dowd & Sons of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of four thousand six hundred seventy-three dollars (\$4,673.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Dowd & Sons paid three hundred ninety-four dollars (\$394.00) of the administrative penalty. The remaining amount of four thousand two hundred seventy-nine dollars (\$4,279.00) of the administrative penalty shall be payable in 11 monthly payments of three hundred eighty-nine dollars (\$389.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Dowd & Sons fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Dowd & Sons's failure to meet the payment schedule of this Agreed Order constitutes the failure by Dowd & Sons to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Dowd & Sons agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Dowd & Sons has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

During an investigation conducted on May 28, 2008, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Dowd & Sons violated:

1. 30 TEX. ADMIN. CODE §§ 30.5(a), 30.301(b), 334.55(a)(3) and 334.401(a), and TEX. WATER CODE § 37.003 by failing to hold an on-site supervisor license and contractor registration prior to removal of a UST from the ground;
2. 30 TEX. ADMIN. CODE §§ 334.6(b)(2) and 334.55(a)(1) by failing to provide a written notification to the TCEQ at least 30 days prior to performing a major construction activity, namely removing a UST; and
3. 30 TEX. ADMIN. CODE §§ 334.55(a)(6) and 334.55(e)(1) by failing to determine whether or not a release has occurred by performing a site assessment.

III. DENIALS

Dowd & Sons generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Dowd & Sons pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Dowd & Sons's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Dowd & Sons Automobile Salvage Company, Inc. aka Dowd & Sons, Inc., Docket No. 2007-1881-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Dowd & Sons shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order Dowd & Sons shall obtain qualified, licensed personnel to conduct a site assessment and submit a copy of the site assessment report, in accordance with 30 TEX. ADMIN. CODE § 334.55 to:

Remediation Division, MC 137
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

If corrective action is necessary, Dowd & Sons shall comply with 30 TEX. ADMIN. CODE § 334.79 "Removal of Non-Aqueous Phase Liquids" and 30 TEX. ADMIN. CODE § 334.80 "Investigation for Soil and Groundwater Cleanup," in addition to any other applicable requirements of 30 TEX. ADMIN. CODE ch. 334 and associated TCEQ guidance documents, within the applicable timeframes as stated in 30 TEX. ADMIN. CODE ch. 334 or as directed otherwise in writing by TCEQ LPST program staff.

- b. Within 45 days after the effective date of this Agreed Order, Dowd & Sons shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. above. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Dowd & Sons shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Sam Barrett, Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Dowd & Sons. Dowd & Sons is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Dowd & Sons fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Dowd & Sons' failure to comply is not a violation of this Agreed Order. Dowd & Sons shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Dowd & Sons shall notify the Executive Director within seven days after Dowd & Sons becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Dowd & Sons shall be made in writing to the Executive Director. Extensions are not effective until Dowd & Sons receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Dowd & Sons in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Dowd & Sons, or three days after the date on which the Commission mails notice of this Agreed Order to Dowd & Sons, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Dowd & Sons Automobile Salvage Company, Inc. aka Dowd & Sons, Inc.
Docket No. 2007-1881-MLM-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director


10/29/09
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Dowd & Sons's compliance history;
- Greater scrutiny of any permit applications submitted by Dowd & Sons;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Dowd & Sons;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Dowd & Sons; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

7-15-09
Date

MIKE DOWD
Name (Printed or typed)
Authorized representative of
Dowd & Sons Automobile Salvage Company, Inc. aka Dowd & Sons, Inc.

PRESIDENT
Title